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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,202	07/09/2003	Susumu Kawashima	2552-000044	9771

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EXAMINER
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WARREN, DAVID S

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/616,202

Applicant(s)

KAWASHIMA, SUSUMU

Examiner

David S. Warren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/9/03 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/9/03 - 5/10/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. Claims 1, 3, 6, and 7 – 9 are objected to because of the following informalities:

The Applicant's use of the words "receiver" and "transmitter" are contrary to the terms used in common vernacular. As the Examiner interprets, in a typical client/server device, the transmitter would typically be in (or on) the server side, while the receiver would be on the client side. This appears to be opposite as claimed and described by the Applicant. Appropriate clarification is required. In making the rejection below, the Examiner will adopt Applicant's usage of these terms.

2. Also, the Applicant appears to have two devices, both referred to as "transmitters" which perform entirely different functions. For example, in claim 1, the transmitter "transmits the converted music data in an audio data format to the user." In claim 3, the transmitter "requests conversion of music data in a musical performance data event format into music data in an audio data format." The Applicant also has the "receiver" performing differently in each of claim 1 and claim 3. Clarification is requested. For the purposes of this Office Action, the Examiner is interpreting "transmitter" broadly as a means to "transmit the converted music data in an audio data format to the user."

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 – 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kikuchi (6,143,973). Regarding claims 1, 7, and 8, Kikuchi discloses the use of a storage device that stores music data (24, 25, and 28), a receiver that receives a request for providing music (the server 3; fig. 3) and a setting parameter (col. 2, fifth paragraph), Kikuchi states:

According to another aspect of the present invention, there is provided a musical tone information control apparatus, comprising: means for designating a musical tone parameter; control means for controlling MIDI data and audio data in accordance with the musical tone parameter designated by the designating means; and reproduction designating means for designating a reproduction of the MIDI data and audio data controlled by the control means.

The Examiner notes that the above paragraph contains control data available on both the client and server. Kikuchi also discloses a converter (both client and server – elements 3 and 9 – have midi-to-analog converters as shown in fig. 3, elements 27a – 27c). Kikuchi also discloses the use of a “transmitter” for transmitting audio format data to a user; Kikuchi states (col. 1, sixth paragraph):

A communications apparatus includes a transmitter and a receiver. The transmitter is desired to be able to transmit a mixture of MIDI data and audio data. The receiver is desired to be able to receive and reproduce both the

MIDI data and audio data at the same time. It is possible to transfer only one of the MIDI data and audio data, but it is difficult to transfer a mixture of MIDI data and audio data. [Emphasis added].

Regarding claim 3, all limitations were discussed supra, except the transmitter for requesting conversion of music performance data into audio data. The client 3 (i.e., the Applicant's "transmitter") of Kikuchi has means 10 and 27b for converting both MIDI and digital audio, into audio data (analog). Regarding claims 5 and 9, Kikuchi discloses the use of buffers, these buffers are for temporarily storing data to be used later (also "working memory" RAM is also used for this purpose). Kikuchi states (see paragraph bridging cols. 9 and 10):

At Step SA5, the acquired MIDI event and the delta time and/or time stamp are sequentially stored in the transmission buffer 24a (FIG. 4A). If the MIDI event is the start event in the packet, the time stamp, delta time, and acquired MIDI event are stored in the transmission buffer 24a, whereas if not, the delta time and acquired MIDI event are stored in the transmission buffer 24a.

Buffers are generally known as temporary storage mediums. In a temporary storage medium, deletion is inherent.

Regarding claims 2, 4, and 6, Kikuchi discloses that client 9 (i.e., Applicant's "transmitter") contains parameters for controlling most music data attributes. Kikuchi states:

In addition to the volume operator 61 and balance operator 62 used for the volume and balance controls, other operators may also be provided for controlling other musical tone parameters. In this case, by using other musical tone parameters as control parameters, the other musical tone parameters can be controlled similar to the volume and balance. Such other

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musical tone parameters are effect parameters (equalizer, filter, and the like) and the like.

As interpreted in view of the §112 rejection above, the Examiner maintains that the parameter setting is within Kikuchi's client 9 and controls MIDI and audio sent from the server (Applicant's receiver).

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents and/or documents to Terada ('366), Gargi ('715), and Tsunoda (2003/0156600) all show Applicant's invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David S. Warren whose telephone number is 571-272-2076. The examiner can normally be reached on M-F, 9:30 A.M. to 6:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2800 ext 37. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

dsw

A handwritten signature in black ink, appearing to read "Marlon T. Fletcher", with a stylized, cursive script.

**MARLON T. FLETCHER**  
**PRIMARY EXAMINER**